

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

UNITED STATES OF AMERICA	:	
	:	
v.	:	CR No. 03-116S
	:	
LEO BERGERON	:	

REPORT AND RECOMMENDATION

Lincoln D. Almond, United States Magistrate Judge

On March 15, 2011, I issued a Report and Recommendation in which I concluded that Defendant was guilty of a Grade C violation of his supervised release conditions. A sentencing hearing was held on March 22, 2011.

Upon finding a Grade C violation, the Court may either (A) revoke supervised release; or (B) extend the term of supervised release and/or modify the conditions. If the Court elected to revoke, the advisory guideline range based on Defendant's criminal history category of VI is eight to fourteen months of incarceration.

The Grade C violation is based on four positive drug tests – two for marijuana and two for cocaine. The last positive drug test result was June 7, 2010. Since that time, the Government reports that Defendant has not failed any drug tests and has successfully completed an outpatient drug treatment program. He continues with mental health treatment. Based on Defendant's progress in addressing his substance abuse issues, the Government recommended a sentence of twenty (20) hours of community service for the violation. Defendant did not argue against the Government's recommendation and also noted that Defendant was on home confinement with electronic monitoring as a condition of bail on this violation from July 7, 2010 to October 22, 2010 which also

effectively acted as a punishment for this violation. In view of the entirety of these circumstances, I recommend that Defendant's conditions of supervised release be modified to require that he complete twenty (20) hours of community service as approved by the U.S. Probation Office.

Any objection to this Report and Recommendation must be specific and must be filed with the Clerk of Court within fourteen (14) days of its receipt. Fed. R. Crim. P. 59; LR Cr 57.2. Failure to file specific objections in a timely manner constitutes a waiver of the right to review by the District Court and the right to appeal the District Court's Decision. United States v. Valencia-Copete, 792 F.2d 4 (1st Cir. 1986); Park Motor Mart, Inc. v. Ford Motor Co., 616 F.2d 603 (1st Cir. 1980).

/s/ Lincoln D. Almond
LINCOLN D. ALMOND
United States Magistrate Judge
March 22, 2011